

HOUSE BILL NO. 174

INTRODUCED BY D. MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT FREEZING THE TAXABLE VALUE OF CERTAIN PROPERTIES FOR PEOPLE AGE 65 OR OLDER OR DISABLED WHO MEET CERTAIN CONDITIONS; PROVIDING A CEILING ON THE MARKET VALUE OF A RESIDENCE ELIGIBLE FOR THE TAX FREEZE; PROVIDING FOR RECAPTURE FOR FRAUDULENT CLAIMS; AMENDING SECTIONS 15-7-102, 15-16-101, AND 15-16-102, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Property tax freeze for elderly and disabled -- definitions. As used in [sections 1 through 7], the following definitions apply:

(1) "Base year" means the year in which the claimant becomes eligible for the real property tax freeze. In the case of a surviving spouse, the base year is the base year of the deceased claimant.

(2) "Base year taxable value" means the taxable market value of a qualified residence in the base year or, at the claimant's election, a year subsequent to the base year. The claimant need not have owned the qualified residence during the base year.

(3) "Claimant" means a person who applies for a real property tax freeze under [sections 1 through 7].

(4) "Department" means the department of revenue.

(5) "Disabled" means any person who receives or is qualified to receive monetary payments pursuant to Title II (42 U.S.C. 416), Title X (42 U.S.C. 1206), Title XIV (42 U.S.C. 1355), or Title XVI (42 U.S.C. 1385) of the Social Security Act for all or part of the year for which a claimant applies for a real property tax freeze.

(6) (a) "Household" means an association of persons who live in the same qualified residence, sharing its furnishings, facilities, accommodations, and expenses.

(b) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(7) "Household income" means all income received by all individuals of a household while they are members of the household.

(8) (a) "Income" means, except as provided in subsection (8)(b), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable

- 1 income, including but not limited to:
- 2 (i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'
- 3 disability benefits;
- 4 (ii) the amount of capital gains excluded from adjusted gross income;
- 5 (iii) alimony;
- 6 (iv) support money;
- 7 (v) nontaxable strike benefits;
- 8 (vi) cash public assistance and relief;
- 9 (vii) interest on federal, state, county, and municipal bonds; and
- 10 (viii) all payments received under federal social security except social security income paid directly to
- 11 a nursing home.
- 12 (b) For the purposes of this subsection (8), income is reduced by the taxpayer's basis.
- 13 (9) "Qualified residence" means an owner-occupied house, condominium apartment, or manufactured
- 14 home that is assessed and taxed as a separate unit. The term includes the lot on which the structure is situated
- 15 or 1 acre, whichever is less, and the garage, whether attached or unattached.
- 16 (10) "Real property tax freeze" means a freeze on the taxable market value of a qualified residence at
- 17 the base year taxable value.
- 18 (11) "Surviving spouse" means a person who was the spouse of an eligible claimant at the time of the
- 19 claimant's death and has not remarried.

20

21 **NEW SECTION. Section 2. Real property tax freeze.** (1) A claimant who owned a qualified residence

22 on January 1 and meets the requirements of [section 3] is eligible for a real property tax freeze upon application

23 pursuant to [section 5] and approval by the department.

24 (2) For each year that the claimant is eligible for the real property tax freeze, the base year taxable value

25 is used to calculate the property taxes due.

26

27 **NEW SECTION. Section 3. Real property tax freeze -- eligibility.** (1) Except as provided in subsection

28 (3), a claimant making an application under the provisions of [sections 1 through 7] is eligible for a real property

29 tax freeze for each year that the following conditions are met. The claimant:

- 30 (a) must be at least 65 years of age or disabled;

1 (b) must be the owner of the qualified residence as recorded by the clerk and recorder in the county
2 where the qualified residence is located. A joint tenant, an owner of a life estate, a beneficiary of a trust, and a
3 vendee of a contract for deed as filed with the clerk and recorder in the county where the qualified residence is
4 located are considered to be owners.

5 (c) must have a household income of less than \$50,000 if the household is a single-member household
6 or less than \$75,000 if the household is a multiple-member household;

7 (d) must have owned the qualified residence for at least 3 years and resided in the qualified residence
8 for at least 7 months of each of those 3 years and for at least 7 months of each year for which the claimant
9 applies;

10 (e) must have established a base year; and

11 (f) may not owe any outstanding property taxes, fees, or penalties.

12 (2) The surviving spouse of an eligible claimant is entitled to the real property tax freeze if the surviving
13 spouse meets the other conditions of this section.

14 (3) A claimant is not eligible for the real property tax freeze for:

15 (a) new construction, expansion, or remodeling that results in an increase in the appraised value of the
16 qualified residence; or

17 (b) the purchase of a new residence if the previously owned residence was eligible for the real property
18 tax freeze.

19
20 **NEW SECTION. Section 4. Ceiling on market value of residence.** [Sections 1 through 7] do not apply
21 if the market value of the qualified residence is \$250,000 or more unless the claimant received the real property
22 tax freeze in a preceding year.

23
24 **NEW SECTION. Section 5. Annual application for freeze -- filing date.** (1) The application for the
25 real property tax freeze provided under [sections 1 through 7] must be submitted annually on a form provided by
26 the department at the same time the claimant's individual income tax return is due, without extension. For a
27 claimant not required to file a tax return, the application must be submitted on or before April 15.

28 (2) A receipt showing property tax billed in the previous tax year must be filed with the application. A
29 claimant shall, at the request of the department, supply all additional information necessary to support an
30 application.

1
2 **NEW SECTION. Section 6. Notification of real property tax freeze -- recordkeeping.** (1) By July 15

3 of each year, the department shall notify the county treasurer of the county in which the qualified residence is
4 located that a claimant is eligible for the real property tax freeze and shall provide the base year taxable value.

5 (2) At the time of notice to the county treasurer, the department shall also notify the claimant of the base
6 year taxable value.

7 (3) The department shall maintain records showing the base year taxable value for property frozen under
8 the provisions of [sections 1 through 7] and shall update the records when property is revalued to reflect the
9 taxable value of the qualified residence as if the taxable value was not frozen under [sections 1 through 7].

10

11 **NEW SECTION. Section 7. Fraudulent claims -- recapture.** (1) A claimant filing a false or fraudulent
12 claim under the provisions of [sections 1 through 7] must be charged with the offense of unsworn falsification to
13 authorities pursuant to 45-7-203.

14 (2) A real property tax freeze taken under the provisions of [sections 1 through 7] is subject to recapture
15 because of a false or fraudulent claim. The recapture is equal to the amount of taxes avoided in the year in which
16 the fraudulent claim was made, plus interest and penalty for nonpayment of property taxes. The unpaid property
17 taxes must bear interest from the due date of the property taxes as provided in 15-16-102(1) until paid, at 1% a
18 month. An additional 10% must be added to the amount due as a penalty.

19 (3) The amount recaptured, including interest and penalty, must be distributed by the treasurer to funds
20 and accounts subject to the real property tax freeze in the same relative proportions required by levies for each
21 governmental unit.

22

23 **Section 8.** Section 15-7-102, MCA, is amended to read:

24 **"15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) Except as provided
25 in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the
26 classification of the land owned or being purchased and the appraisal of the improvements on the land only if one
27 or more of the following changes pertaining to the land or improvements have been made since the last notice:

28 (i) change in ownership;

29 (ii) change in classification;

30 (iii) except as provided in subsection (1)(b), change in valuation; or

1 (iv) addition or subtraction of personal property affixed to the land.

2 (b) After the first year, the department is not required to mail the notice provided for in subsection
3 (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the
4 phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an
5 incremental change in the tax rate.

6 (c) The notice must include the following for the taxpayer's informational purposes:

7 (i) a notice of the availability of all the property tax assistance programs available to property taxpayers,
8 including the property tax assistance program under 15-6-134, the extended property tax assistance program
9 under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, the real property tax
10 freeze under [sections 1 through 7], and the residential property tax credit for the elderly under 15-30-2337
11 through 15-30-2341;

12 (ii) the total amount of mills levied against the property in the prior year; and

13 (iii) a statement that the notice is not a tax bill.

14 (d) When the department uses an appraisal method that values land and improvements as a unit,
15 including the comparable sales method for residential condominiums or the income method for commercial
16 property, the notice must contain a combined appraised value of land and improvements.

17 (e) Any misinformation provided in the information required by subsection (1)(c) does not affect the
18 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

19 (2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the
20 correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a
21 standardized form, adopted by the department, containing sufficient information in a comprehensible manner
22 designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over
23 the prior tax year.

24 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal
25 of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

26 (c) The department is not required to mail the notice of classification and appraisal to a new owner or
27 purchaser under contract for deed unless the department has received the transfer certificate from the clerk and
28 recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
29 (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

30 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the

1 market value of the property as determined by the department or with the classification of the land or
2 improvements, the owner may request an assessment review by submitting an objection in writing to the
3 department on forms provided by the department for that purpose. For property other than class three property
4 described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143,
5 the objection must be submitted within 30 days after receiving the notice of classification and appraisal from the
6 department. For class three property described in 15-6-133, class four property described in 15-6-134, and class
7 ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle.

8 (b) For properties valued using sales price or the capitalization of net income method as an indication
9 of value, the form must include a provision that the objector agrees to confidentiality requirements for receipt of
10 comparable sales data from information received from realty transfer certificates under 15-7-308. Within 4 weeks
11 of submitting an objection, if the objection relates to residential and commercial property, the department shall
12 provide the objector by posted mail or e-mail, unless the objector waives receiving the information, with:

- 13 (i) data from comparable sales used by the department to value the property;
14 (ii) the methodology and sources of data used by the department in the valuation of the property; and
15 (iii) if the department uses a blend of evaluations developed from various sources, the reasons that the
16 methodology was used.

17 (c) For properties valued using the capitalization of net income method as one approximation of market
18 value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements
19 for the receipt of all aggregate model output that the department used in the valuation model for the property.

20 (d) The review must be conducted informally and is not subject to the contested case procedures of the
21 Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling
22 price of the property, independent appraisals of the property, and other relevant information presented by the
23 taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give
24 reasonable notice to the taxpayer of the time and place of the review.

25 (e) After the review, the department shall determine the correct appraisal and classification of the land
26 or improvements and notify the taxpayer of its determination. The department may not determine an appraised
27 value that is higher than the value that was the subject of the objection unless the reason for an increase was
28 the result of a physical change in the property or caused by an error in the description of the property that is kept
29 by the department and used for calculating the appraised value. In the notification, the department shall state its
30 reasons for revising the classification or appraisal. When the proper appraisal and classification have been

1 determined, the land must be classified and the improvements appraised in the manner ordered by the
2 department.

3 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an
4 appraisal or classification upon the taxpayer's objection unless:

5 (a) the taxpayer has submitted an objection in writing; and

6 (b) the department has stated its reason in writing for making the adjustment.

7 (5) A taxpayer's written objection to a classification or appraisal and the department's notification to the
8 taxpayer of its determination and the reason for that determination are public records. The department shall make
9 the records available for inspection during regular office hours.

10 (6) If any property owner feels aggrieved by the classification or appraisal made by the department after
11 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
12 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
13 The appeal to the county tax appeal board must be filed within 30 days after notice of the department's
14 determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider
15 the actual selling price of the property, independent appraisals of the property, and other relevant information
16 presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the
17 state tax appeal board determines that an adjustment should be made, the department shall adjust the base value
18 of the property in accordance with the board's order."

19

20 **Section 9.** Section 15-16-101, MCA, is amended to read:

21 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the receipt
22 of the property tax record, the county treasurer shall publish a notice specifying:

23 (a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next
24 November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount
25 then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency
26 until paid and 2% will be added to the delinquent taxes as a penalty;

27 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next
28 May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6
29 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;
30 and

1 (c) the time and place at which payment of taxes may be made.

2 (2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice,
3 postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due
4 and delinquent for other years. The written notice must include:

5 (i) the taxable value of the property;

6 (ii) the total mill levy applied to that taxable value;

7 (iii) itemized city services and special improvement district assessments collected by the county;

8 (iv) the number of the school district in which the property is located;

9 (v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax, and
10 other tax; and

11 (vi) a notice of the availability of all the property tax assistance programs available to property taxpayers,
12 including the property tax assistance program under 15-6-134, the extended property tax assistance program
13 under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, the real property tax
14 freeze under [sections 1 through 7], and the residential property tax credit for the elderly under 15-30-2337
15 through 15-30-2341.

16 (b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued
17 under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the
18 property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete
19 information.

20 (3) The municipality shall, upon request of the county treasurer, provide the information to be included
21 under subsection (2)(a)(iii) ready for mailing.

22 (4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper
23 published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish
24 or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the
25 current year or of delinquent tax will not affect the legality of the tax.

26 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
27 tax is not owed and a new tax bill does not need to be prepared."
28

29 **Section 10.** Section 15-16-102, MCA, is amended to read:

30 **"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or canceled under the

1 provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana,
2 except assessments made for special improvements in cities and towns payable under 15-16-103, are payable
3 as follows:

4 (1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days
5 after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31
6 of each year.

7 (2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30
8 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and, except as
9 provided in [section 7(2)], draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid
10 and 2% must be added to the delinquent taxes as a penalty.

11 (3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and, except
12 as provided in [section 7(2)], draw interest at the rate of 5/6 of 1% a month from and after the delinquency until
13 paid, and 2% must be added to the delinquent taxes as a penalty.

14 (4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without
15 penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

16 (b) If taxes on property qualifying under the low-income property tax assistance provisions of
17 15-6-134(1)(c) are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid
18 without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must
19 be paid and interest accrues from the date on which the taxes were due.

20 (5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall
21 accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax
22 years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must
23 be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is
24 not a redemption of the property tax lien for any delinquent tax year.

25 (b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment
26 otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

27 (6) The penalty and interest on delinquent assessment payments for specific parcels of land may be
28 waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

29 (7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
30 tax is not owed and a new tax bill does not need to be prepared.

1 (8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided
2 in 76-3-207."

3
4 NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 7] are intended to be
5 codified as an integral part of Title 15, chapter 24, and the provisions of Title 15, chapter 24, apply to [sections
6 1 through 7].

7
8 NEW SECTION. **Section 12. Effective date.** [This act] is effective January 1, 2014.

9
10 NEW SECTION. **Section 13. Applicability.** [This act] applies to property taxes billed after December
11 31, 2013.

12 - END -